



General Suspension Concepts & Suspension of Institutions

Suspension Overview

- General concepts
- Institutions
- Homes

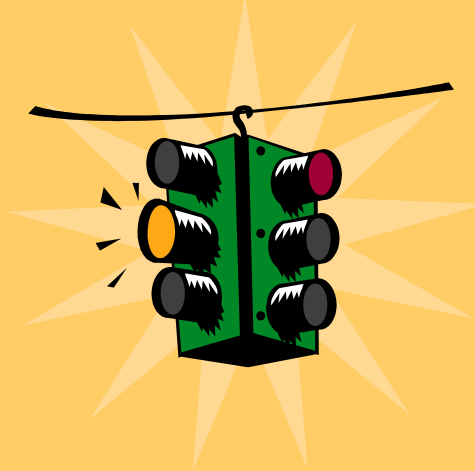


General Concepts

- What is suspension?
- Why suspend?
- Who suspends, who is suspended?
- How long does suspension last?
- What are the appeal rights?

What is Suspension?

- “The temporary ineligibility of institutions and homes to participate in the program, including program payments”



In other words:

- The program agreement has not been **formally** terminated
- The institution or day care home may not participate in the program during the suspension period
- No claims are paid
- Suspension is in effect until SD is corrected

- The Institution may continue to operate at its own risk during suspension



Suspension \neq Termination/DQ

Suspension is:

- Temporary
- Only for 2 kinds of serious deficiencies
- No corrective action if based on an imminent H/S threat

Suspension \neq Disallowance of Invalid Claims

- Disallowance of invalid claims is mandatory
- Suspension is optional (for F/F claims)
- Under suspension:
 - Institution or home is temporarily off the program
 - No claims are paid

Key Concept!

- Suspension is part of the SD process



Why Suspend?

- Imminent threat to health or safety
 - Mandatory
 - Institutions and homes
- Submission of false or fraudulent claim
 - Optional
 - Institutions only

What is an Imminent Threat to Health or Safety?

- Very serious in nature
- Violations that could lead to license revocation

What Does CACFP/SO Do?

- Depends on who finds the problem
 - Health or licensing authority
 - CACFP SA or sponsor



Health/Licensing Authority Finds the Problem

- Immediately suspend
- No need to wait for license revocation

CACFP/SO Finds the Problem

- Immediately inform health/licensing authority
- Usually suspend (based on recommendation of health/licensing authority)
- Don't have to wait for formal recommendation

Suspension for False or Fraudulent Claims

- Applies only to institutions
- Optional



Who Suspends?

Who Gets Suspended?

- State agencies suspend institutions
- FNS may suspend institutions
- Sponsors suspend homes
(Imminent H/S threat only)

How Long Does Suspension Last?

- 120 days for F/F claim submission
- No time limit for an imminent H/S threat

What Are the Appeal Rights?

- Before suspension
 - No appeal for imminent H/S threats
 - “Suspension review” for F/F claims



Appealing Suspension For Imminent H/S Threats

- Appeal occurs after suspension
- If overturned, may claim meals/admin costs incurred during suspension

Appealing Suspension For F/F Claims

- Institutions may appeal proposed suspension
 - Suspension Review
 - Limits review to only written documentation
- Institutions may appeal suspension
 - Through regular appeal procedures
 - Suspension review

Suspending Institutions

- Suspension for F/F claims
- Institution appeals of suspension

F/F Claims – Combined Notice, Serious Deficiency

1. SA sends a combined notice:
 - Identifies F/F claim as a serious deficiency
 - Identifies Responsible principals/individuals
 - Outlines CA required and gives deadline

F/F Claims – Combined Notice, Proposing Suspension

- Combined notice also proposes to suspend:
 - Identifies F/F claim as a SD
 - Identifies RP/RIs
 - Proposes to suspend participation
 - Procedures for suspension review

F/F Claims – Combined Notice, Claim Denial

- SA denies the invalid portion of claim
- SA informs how to request appeal of claim denial

F/F Claims – One or More Notices?

- SA may send multiple notices:
 - SD Notice
 - Claim Denial Notice, and
 - Proposed Suspension Notice
- OR
- SA may send combined notice:
 - SD can't be appealed
 - Claim denial may be appealed
 - Institution can request Suspension Review

F/F Claims – Tracking & Suspension Review

2. SA sends copies of notices to FNSRO & updates SA list
3. Institution requests suspension review & appeals claim denial
4. Suspension review is held



F/F Claims – Suspension Review Decision

5. SA wins suspension review and sends a suspension notice
6. Institution appeals suspension
7. CA not taken; SA issues notice of proposed termination / DQ

F/F Claims -- Appeal

8. Institution appeals proposed termination / disqualification
and
RP/RIs appeal proposed disqualifications

F/F Claims – Appeal Decision

9. SA is upheld!

- Sends termination/DQ notice
 - Agreement is terminated (suspension ends)
 - Institution & RP/RIs disqualified, and will be placed on National Disqualified List

F/F Claims – When the SA Loses the Appeal

SA would inform that:

- Suspension ended on date of hearing decision
- Sponsor's agreement is not terminated
- Responsible individuals are not disqualified
- Sponsor will be paid for eligible meals while suspended

F/F Claims – Tracking (Again)!

10. SA updates SA list; Informs FNSRO



F/F Claims – Key Points

#1 Only Institutions may be suspended for F/F Claim submission!

#2 Suspension is part of SD process:

- Send 3 Notices (SD, Proposed Suspension, Claim Denial) together or combined Notice

F/F Claims – Key Points (Con't)

#3 Suspension is optional

#4 Institutions have 2 opportunities to appeal:

- Before suspension -- Suspension Review
- After suspension -- regular appeal process

Suspension Review

- Occurs before actual suspension
- Limited review of written documentation
(Complete notices are critical!)
- Short timeframes

Suspension Review Timeline

Day 0 -- Receipt of Proposed Suspension Notice

Day 10 -- Deadline to request Suspension Review & submit written opposition

Day 20 -- Deadline for Suspension Review Official to render decision

Suspension Review Official

- Qualifications:
 - Independent
 - Impartial
- Some Examples:
 - State employees not connected to CACFP
 - Attorneys for State
 - State appeals hearing officials



Suspension Review Official's Duties

- Notifies SA that institution requested suspension review
- Considers documentation and renders a decision
- Notifies SA and institution of decision

Suspension Review – Key Points

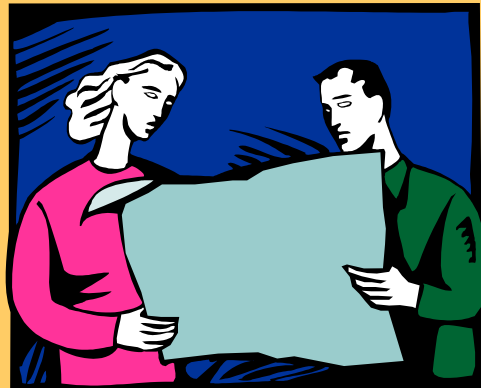
- #1 Only for Institutions proposed to be suspended for F/F claim submission
- #2 Provides independent review to ensure that evidence supports the suspension
- #3 Suspension Review Official must be independent and impartial



Suspension of Providers

Overview

- The suspension process
- Only for imminent threat to health or safety



Two Scenarios:

- Process depends on who discovers the problem --
 - Health or licensing authority
 - Sponsor



Scenario 1: H/L Authority Discovers Problem

1. Sponsor sends suspension notice to provider:
 - Identifies SD
 - Suspends home
 - Proposes termination for cause
 - Proposes disqualification
 - Tells how to appeal
 - Copy to SA

Steps in the Process: Provider Appeals Suspension

2. Provider appeals all adverse actions
 - Suspension
 - Proposed termination for cause
 - Proposed disqualification
3. The appeal is held

Steps in Process: If Sponsor Wins

4(a). Send termination/disqualification notice

- Agreement is terminated for cause
- Provider is disqualified and will be placed on National Disqualified List

Steps in Process: If Sponsor Loses

4(b). Inform provider that:

- Suspension is ended
- Agreement not terminated
- Provider not disqualified
- Will be paid for eligible meals served

Steps in Process: Tracking

5. Sponsor sends SA copy of notice
6. If disqualified, SA adds home to SA list and informs FNS RO

Key Points

- Suspension of homes only for imminent H/S threat
- Sponsor must act immediately
 - Suspend immediately if cited by H/L authority
 - Notify H/L authority and then act consistently with recommendation (usually suspend)
- Providers may appeal suspension

Final Thoughts

- Suspension is complex but worth the effort
- Provide training and guidance to your sponsors
- FNS will provide guidance as needed

